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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,287	11/12/2003	Robert J. Mills	14580	9323

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,287

Applicant(s)

MILLS ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
4a) Of the above claim(s) 7,8,11,12,18,19,22,23,28,29,32 and 33 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6,9,10,13-17,20,21,24-27,30 and 31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 13, 14, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,168,910 to Merrill in view of U.S. Patent No. 6,039,392 to Dencker and U.S. Patent No. 3,756,654 to Bauer.

Merrill discloses a chair and desk combination that includes all the limitations recited in claims 1-3, 13, 14, and 24 except that the work surface area of the desk is not specified and the telescoping mechanism lacks a gas cylinder, valve, and valve opening lever, as recited in the claims. See Figures 1 and 2 of Merrill for the teaching that the chair and desk combination has a base 10 (see Fig. 2), a chair 15 attached to the base and including a seating surface with a forward edge, a telescoping mechanism for vertically adjusting the height of the seating surface and including a vertical cylinder and clamping element 21 (see column 2, lines 2-6), and a work surface 23 attached to the base and including a rearward edge and defining a work surface area wherein the forward edge of the seating surface is disposed in a vertical plane and the height of the seating surface is vertically adjustable without affecting the distance between the rearward edge of the work surface and the vertical plane (see column 2, lines 2-6), and

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the chair is capable of swiveling about a vertical axis through an arc of at least 15°, the distance between the rearward edge of the work surface is laterally adjustable with respect to the vertical plane without affecting the height of the seating surface.

Dencker shows a chair and desk combination similar to that of Merrill wherein the chair and desk combination has a base 40 (see Fig. 1), a chair 50 attached to the base, and a work surface 20 attached to the base and including a work surface area between 80 square inches and 1100 square inches (see column 2, lines 61-62). In addition, the instant application does not state that the claimed work surface area range solves any particular problem or produces any unexpected results, such that it appears that the work surface area range is merely a matter of engineering design choice, which would not serve to patentably distinguish the claim invention over prior art. Moreover, the breadth of the range from 80 square inches (approximately the area of a piece of notebook paper) to 1100 square inches (approximately a square yard) suggests that the claimed range is not critical to the operation of the chair and desk combination. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair and desk combination of Merrill such that the work surface area is between 80 square inches and 1100 square inches, such as the chair and desk combination disclosed in Dencker and as a matter of design choice. One would have been motivated to make such a modification in view of the suggestion in Dencker that the work surface area between 80 and 1100 square inches provides a writing surface area, an armrest supporting area, and a book supporting area that is angularly adjustable.

Page 6, lines 1-11 of the instant application clearly set forth that telescoping mechanisms for vertically adjusting the height of a seating surface via an internal gas cylinder, a valve, and a valve opening lever are well known in that art. For example, Bauer shows a chair similar to that of Merrill wherein the chair has a telescoping mechanism for vertically adjusting the height of a seating surface 1 (see Fig. 1) that includes an internal gas cylinder 5, a valve 8 (see Fig. 4), and a valve opening lever 3. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the chair and desk combination of Merrill such that the telescoping mechanism includes an internal gas cylinder, a valve, and a valve opening lever, such as the chair and desk combination disclosed by Bauer. One would have been motivated to make such a modification as these telescoping mechanisms are well known in the art and in view of the suggestion in Bauer that the gas cylinder, valve, and valve opening lever configuration allows for simple height adjustment of the seat surface with the use of a single hand.

3. Claims 4-6, 15-17, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill in view of Dencker as applied to claims 1, 2, 13, 14, and 24 above, and further in view of U.S. Patent No. 2,459,257 to Wood.

Merrill, as modified, discloses a chair and desk combination that includes all the limitations recited in claims 4-6, 15-17, and 25-27 except that the base lacks horizontal rails and riser rails, as recited in the claims. See Figures 2-4 of Merrill for the teaching that the work surface 23 (Fig. 2) is defined on a substrate 33 (Fig. 3) with an underside and includes a pair of parallel first slide sections 38,39 (Fig. 4) attached to an upper

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portion of the riser rails and including a pair of transverse rails, a pair of parallel second slide sections 24 (Fig. 4) attached to the underside of the substrate and including a pair of slide rods, each first slide section cooperates with one of the second slide sections so that a rearward edge of the work surface can be laterally adjusted with respect to a forward edge of the seating surface independently of the height of the seating surface by sliding the work surface forward or rearward, and each of the slide rods slidably disposed within both transverse rails. Wood shows a chair and desk combination similar to that of Merrill wherein the chair and desk combination has a base 5 (see Fig. 2) including a pair of parallel horizontal rails 6 with forward and rearward ends and a pair of parallel riser rails 8 with upper portion and lower most end wherein the lower most ends of the riser rails each attach to the forward ends of the horizontal rails, and a work surface 18 attached to the base by the parallel riser rails. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the chair and desk combination of Merrill such that the base has a pair of parallel horizontal rails, the work surface is attached to the base by a pair parallel riser rails, each horizontal rail has a forward end and rearward end, each riser rail has an upper portion and a lower most end, and the forward end of each horizontal rail is attached to the lower most end of at least one of the riser rails, such as the chair and desk combination disclosed in Wood. One would have been motivated to make such a modification in view of the suggestion in Wood that the base with the parallel horizontal and riser rails provide a base with tubular sections that are removably connected for easy adjustment.

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4. Claims 9, 10, 20, 21, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill, as modified, in view of Wood as applied to claims 4-6, 15-17, and 25-27 above, and further in view of U.S. Patent No. 5,507,550 to Maloney.

Merrill, as modified, discloses a chair and desk combination that is basically the same as that recited in claims 9, 10, 20, 21, 30, and 31 except that the slide sections lack a notched rail and a latch, as recited in the claims. Maloney shows a chair and desk combination similar to that of Merrill wherein the combination has parallel riser rails 44 (Fig. 2), a work surface 16 (Fig. 1) defined on a substrate (Fig. 6) with an underside, a notched rail 113 (Fig. 2) on a first slide section that includes a plurality of notches 113b (Fig. 6), a latch 116 (Fig. 6) on the underside of the substrate, and a latch release mechanism 132 (Fig. 6) disposed proximate an edge for access by the user such that the latch is capable of cooperating with the plurality of notches to alternatively fixedly engage and disengage the work surface with respect to the riser rails so that the work surface can be slid closer or farther from a seating surface 22 (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the chair and desk combination of Merrill such that the first slide sections have a notched rail with a plurality of notches, the second slide sections have a latch, and a latch release mechanism on the latch that is disposed proximate to the rearward edge of the work surface wherein the latch is capable of cooperating with the notches in the notched rail to alternatively fixedly engage the work surface with respect to the base at any one of a plurality of distances from the seating surface and disengage the work surface from the base so that the work surface can be slid closer to

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the seating surface or farther from the seating surface, such as the chair and desk combination disclosed in Maloney. One would have been motivated to make such a modification in view of the suggestion in Maloney that the latch and notch configuration on the substrate and slide section provides a work surface that may be moved either forward or rearward.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6, 9, 10, 13-17, 20, 21, 24-27, 30, and 31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JE

June 26, 2006


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